

## Branigan, Terence

---

**From:** ADMIRE, BETH <BADMIRE@idem.IN.gov>  
**Sent:** Friday, January 27, 2017 9:53 AM  
**To:** Branigan, Terence; VOSS, LEIGH; Bajor, John  
**Cc:** Bahr, Ryan  
**Subject:** RE: City of Jeffersonville

Terry:

I have not received anything and sent on another request to Jeffersonville's identified lawyers. If I don't hear from them today COB, I will call Monday morning.

Beth

---

**From:** Branigan, Terence [mailto:Branigan.Terence@epa.gov]  
**Sent:** Friday, January 27, 2017 10:42 AM  
**To:** ADMIRE, BETH; VOSS, LEIGH; Bajor, John  
**Cc:** Bahr, Ryan  
**Subject:** RE: City of Jeffersonville

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Hi Beth,

We've had an inquiry from DOJ. Have you heard anything from Jeffersonville? Any other updates to the status of this matter?

Best,

Terry

Terence Branigan  
Associate Regional Counsel (C-14J)  
U.S. EPA/Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604  
(312) 353-4737 phone  
(312) 385-5500 fax  
[branigan.terence@epa.gov](mailto:branigan.terence@epa.gov)

**From:** ADMIRE, BETH [mailto:BADMIRE@idem.IN.gov]  
**Sent:** Thursday, January 12, 2017 10:28 AM  
**To:** VOSS, LEIGH <LVOSS@idem.IN.gov>; Bajor, John <bajor.john@epa.gov>  
**Cc:** Branigan, Terence <Branigan.Terence@epa.gov>; Bahr, Ryan <bahr.ryan@epa.gov>  
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I can send a quick note

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**Subject:** RE: City of Jeffersonville

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**Sent:** Tuesday, January 10, 2017 3:55 PM  
**To:** ADMIRE, BETH; VOSS, LEIGH  
**Cc:** Branigan, Terence; Bahr, Ryan  
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Please advise.

Thank you.

Regards.

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Enforcement Officer/Environmental Engineer  
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USEPA, Region 5  
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## **Branigan, Terence**

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## Branigan, Terence

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## **Branigan, Terence**

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**From:** Branigan, Terence  
**Sent:** Friday, January 27, 2017 10:02 AM  
**To:** 'ADMIRE, BETH'; VOSS, LEIGH; Bajor, John  
**Cc:** Bahr, Ryan  
**Subject:** RE: City of Jeffersonville

Beth,

By identified lawyers, do you mean Scott Lewis and Les Merkley?

Thanks,

Terry

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**Sent:** Friday, January 27, 2017 10:03 AM  
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**Cc:** Bahr, Ryan  
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Yes!

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## Branigan, Terence

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**From:** ADMIRE, BETH <BADMIRE@idem.IN.gov>  
**Sent:** Tuesday, January 31, 2017 6:12 AM  
**To:** Bajor, John; VOSS, LEIGH  
**Cc:** Branigan, Terence; Bahr, Ryan  
**Subject:** RE: City of Jeffersonville

Good morning everyone:

I did not receive a response from Jeffersonville's designated counsel so Paul Higgenbotham contacted Len Ashack and he indicated that they are currently working on a response and that the sewer board attorney had resigned and this was why things were moving slower.

Beth

---

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**From:** Kelln, H. Max <H.Max.Kelln@faegrebd.com>  
**Sent:** Wednesday, November 16, 2016 6:55 AM  
**To:** Branigan, Terence; Beth Admire  
**Subject:** RE: Jeffersonville FCA Update and Request for Modification

Terry and Beth – Any update on follow-up questions/comments on the request yet? Thanks! Max

H. Max Kelln

*Associate*

h.max.kelln@FaegreBD.com Download vCard  
D: +1 317 237 1215 | M: +1 317 989 3078 | F: +1 317 237 1000

**Faegre Baker Daniels LLP**

300 N. Meridian Street | Suite 2700 | Indianapolis, IN 46204, USA  
Connect: LinkedIn

---

**From:** Branigan, Terence [mailto:Branigan.Terence@epa.gov]  
**Sent:** Friday, October 28, 2016 4:17 PM  
**To:** Kelln, H. Max; ADMIRE, BETH  
**Subject:** RE: Jeffersonville FCA Update and Request for Modification

Hi Max-

We've had some preliminary discussions about the modification request and are preparing correspondence seeking some additional information. The consensus here is that we'd like a chance to review the additional information prior to setting up a meeting to discuss the request. I am hopeful that the correspondence will be ready to send in the very near future.

Could you explain in more detail what is meant by saying that the city will have to act to preserve its rights regarding the new permit?

Thanks,

Terry

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**Sent:** Thursday, October 27, 2016 12:54 PM  
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**Subject:** RE: Jeffersonville FCA Update and Request for Modification

Hi Terry –

Just checking in to see if the agencies are at a point yet where we can set up a meeting to discuss. The City of Jeffersonville's NPDES permit is nearing finalization, which will include a new phosphorus limit. So the city will have to act to preserve its rights regarding the new permit if a determination hasn't been made yet on the modification request.

Thanks!

Max

H. Max Kelln

*Associate*

[h.max.kelln@FaegreBD.com](mailto:h.max.kelln@FaegreBD.com) Download vCard

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**Faegre Baker Daniels LLP**

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Connect: [LinkedIn](#)

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**From:** Branigan, Terence [<mailto:Branigan.Terence@epa.gov>]

**Sent:** Thursday, October 13, 2016 3:17 PM

**To:** Kelln, H. Max; ADMIRE, BETH

**Subject:** RE: Jeffersonville FCA Update and Request for Modification

Hi Max:

November 8 and 9 won't work for EPA. We're having a conference call on Monday and should have a better idea afterward about what arrangements would work from this end.

Regards,

Terry

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**Subject:** RE: Jeffersonville FCA Update and Request for Modification

Thanks Beth –

It looks like the week of the 24<sup>th</sup> doesn't work for us. We are available the first full week in November on the following dates:

- Tuesday, November 8; and
- Wednesday, November 9

Also, we want to propose having a call in advance if there are any questions/specifics you want us to address at the meeting. October 21 would work for the conference call.

Let us know if this works or is there any other dates that you area available after November 11.

Regards,

Max

H. Max Kelln

*Associate*

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**Faegre Baker Daniels LLP**

300 N. Meridian Street | Suite 2700 | Indianapolis, IN 46204, USA  
Connect: LinkedIn

---

**From:** ADMIRE, BETH [<mailto:BADMIRE@idem.IN.gov>]  
**Sent:** Friday, October 07, 2016 10:11 AM  
**To:** Kelln, H. Max; [Branigan.Terence@epa.gov](mailto:Branigan.Terence@epa.gov)  
**Subject:** RE: Jeffersonville FCA Update and Request for Modification

The week of the 24<sup>th</sup> would work better for me.

---

**From:** Kelln, H. Max [<mailto:H.Max.Kelln@faegrebd.com>]  
**Sent:** Friday, October 07, 2016 10:09 AM  
**To:** ADMIRE, BETH; [Branigan.Terence@epa.gov](mailto:Branigan.Terence@epa.gov)  
**Subject:** RE: Jeffersonville FCA Update and Request for Modification

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---

Thanks. Would Friday, October 21 work? Again, our preference would be to meet in Jeffersonville so we can get as much local participation (sewer board, etc.) as possible. Also, I really think Jeffersonville wants an opportunity to show other progress that has been made with the system. We can provide a fuller agenda in advance. Regards, Max

H. Max Kelln

*Associate*

h.max.kelln@FaegreBD.com Download vCard  
D: +1 317 237 1215 | M: +1 317 989 3078 | F: +1 317 237 1000

**Faegre Baker Daniels LLP**

300 N. Meridian Street | Suite 2700 | Indianapolis, IN 46204, USA  
Connect: LinkedIn

---

**From:** ADMIRE, BETH [<mailto:BADMIRE@idem.IN.gov>]  
**Sent:** Monday, September 26, 2016 11:07 AM  
**To:** Kelln, H. Max; [Branigan.Terence@epa.gov](mailto:Branigan.Terence@epa.gov)  
**Subject:** RE: Jeffersonville FCA Update and Request for Modification

Hi Max:

We have an internal meeting schedule in this matter on October 17<sup>th</sup>, so I would prefer that we meet after that.

---

**From:** Kelln, H. Max [<mailto:H.Max.Kelln@faegrebd.com>]  
**Sent:** Monday, September 26, 2016 10:06 AM  
**To:** [Branigan.Terence@epa.gov](mailto:Branigan.Terence@epa.gov); ADMIRE, BETH  
**Subject:** Jeffersonville FCA Update and Request for Modification

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---

Terry and Beth –

I think by now each of you should have received Jeffersonville's FCA Update and Request for Modification. In terms of next steps, we would like to propose an in-person meeting for Jeffersonville to present the key points of its revised FCA, discuss our modification request, and answer any preliminary questions. For further reference, please see attached public comments that were submitted by Jeffersonville to IDEM as part of its recent draft permit renewal.

For the meeting, we'd propose either Tuesday, October 11, or Wednesday, October 12 as the best dates for us. Present would be Diana Hamilton (Sycamore Advisers), Chris Ranck (Arcadis), myself, Len Ashack (sewer director), and perhaps a couple members of the sewer board. Our initial preference would be to have the meeting in Jeffersonville.

Please let us know if these don't work (or feel free to propose your own) and preferred location. Please let us know if you would like to have a preliminary conference call before then as well.

Regards,

Max

H. Max Kelln

*Associate*

[h.max.kelln@FaegreBD.com](mailto:h.max.kelln@FaegreBD.com) Download vCard  
D: +1 317 237 1215 | M: +1 317 989 3078 | F: +1 317 237 1000

**Faegre Baker Daniels LLP**

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Connect: [LinkedIn](#)

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Thank you.



## **Branigan, Terence**

---

**From:** Bahr, Ryan  
**Sent:** Thursday, November 10, 2016 12:47 PM  
**To:** HANCOCK, MARC; VOSS, LEIGH; Riddle, G. Lynn; ADMIRE, BETH; Higginbotham, Paul; Novak, Paul; Dittmer, Jerry  
**Cc:** Branigan, Terence; Kuefler, Patrick; Cooney, Nigel (ENRD); Bajor, John  
**Subject:** RE: Conference Call, Monday October 17, 11:30 AM CST, Jeffersonville, In.  
**Attachments:** ENV\_ENFORCEMENT-#2623101-v1-Jeffersonville\_-EPA\_IDEM\_Letter\_re\_10yr\_Extension\_DRAFT.docx

Thank you everyone for the call that we had to discuss Jeffersonville's/Scott Chinn's letter to IDEM.

On our call, we decided to ask via letter that Jeffersonville clarify its request. In particular, it was not entirely clear if they were asking for an extension or to also revisit controls. They also did an FCA assessment of the current schedule but did not do an FCA of their requested schedule.

As agreed to on the call, we drafted the attached letter. Please let us know what comments that you have on the letter. After reviving your comments, we can finalize the draft and send it back to you all to route for signature. We were not sure who would sign at IDEM and left that for you all to fill in. Pat Kuefler is the signature for EPA. Terry checked with Nigel and Nigel was okay having this letter come from EPA and IDEM.

Please provide your comments by the 17<sup>th</sup> and let us know if you have any questions.

-Ryan (312-353-4366) and Jack (312-353-4633)

---

**From:** HANCOCK, MARC [mailto:MHANCOCK@idem.IN.gov]  
**Sent:** Friday, October 14, 2016 12:07 PM  
**To:** Bajor, John <bajor.john@epa.gov>; VOSS, LEIGH <LVOSS@idem.IN.gov>; Riddle, G. Lynn <GRiddle@idem.IN.gov>; ADMIRE, BETH <BADMIRE@idem.IN.gov>  
**Cc:** Branigan, Terence <Branigan.Terence@epa.gov>; Kuefler, Patrick <kuefler.patrick@epa.gov>; Bahr, Ryan <bahr.ryan@epa.gov>; Cooney, Nigel (ENRD) <Nigel.Cooney@usdoj.gov>; HOUSE, JASON <JAHOUSE@idem.IN.gov>; Novak, Paul <PNovak@idem.IN.gov>; Higginbotham, Paul <PHIGGINB@idem.IN.gov>; Dittmer, Jerry <JDITTMER@idem.IN.gov>  
**Subject:** RE: Conference Call, Monday October 17, 11:30 AM CST, Jeffersonville, In.

Thanks Jack.

For everyone at IDEM who will be participating, I have Conference Room D reserved for this call.

---

**From:** Bajor, John [mailto:bajor.john@epa.gov]  
**Sent:** Friday, October 14, 2016 12:22 PM  
**To:** HANCOCK, MARC; VOSS, LEIGH; Riddle, G. Lynn; ADMIRE, BETH  
**Cc:** Branigan, Terence; Kuefler, Patrick; Bahr, Ryan; Cooney, Nigel (ENRD)  
**Subject:** Conference Call, Monday October 17, 11:30 AM CST, Jeffersonville, In.

\*\*\*\* This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. \*\*\*\*

---

Please use the following Conference Call Number and Code for our meeting next week. This will facilitate participation.

**Conference Call In Number: (866) 299-3188; Conference Code #: 3128867152**

Roo 1517 is reserved for R5 participants.

Marc would you please ensure receipt of this email to all IDEM participants? I think I've got them all from our last discussion.

Please acknowledge receipt of this email.

Regards.

John "Jack" J. Bajor, Jr.  
Environmental Engineer/Enforcement Officer  
Water Division  
Water Enforcement & Compliance Assurance  
USEPA, Region 5  
WC-15J; #15020  
77 West Jackson Blvd.  
Chicago, Illinois 60604-3590  
Phone: (312) 353-4633  
FAX: (312) 886-6090  
Email: [Bajor.john@epa.gov](mailto:Bajor.john@epa.gov)

WC-15J

**CERTIFIED MAIL 7014 2870 0001 9580 7900**  
**RETURN RECEIPT REQUESTED**

Mr. Scott Chinn  
Faegre Bakers Daniels LLP  
300 North Meridian Street Suite 2700  
Indianapolis, Indiana 46204-1750

Re: City of Jeffersonville Financial Capability Assessment Update and Request for  
Consultation Regarding Proposed Modification of the Long Term Control Plan.  
Consent Decree #4:09-CV-0125DFH-WGH

Dear Mr. Chinn:

In a September 7, 2016 letter to the Indiana Department of Environmental Management (IDEM), you requested consultation with IDEM and with the U.S. Environmental Protection Agency (the Agencies) regarding a request for a proposed modification to the City of Jeffersonville's Long Term Control Plan (LTCP). Your letter included a request for a "10-year extension to complete its [Jeffersonville's] remaining projects under the current LTCP and further consultation to implement more economically feasible CSO levels of control for its LTCP." The City also provided an updated Financial Capability Assessment (FCA) dated September 2016.

In reviewing your request and before entertaining a meeting to discuss the request further, the Agencies have identified information that we need as a basis to consider your request and to enable for fruitful discussion. Specifically, the Agencies request that the City provide the following information:

1. Provide an FCA aligned with the 10 year extension that you have proposed. The September 2016 FCA you sent IDEM aligns with the current LTCP schedule. In order to evaluate if a longer schedule is appropriate, the Agencies need an FCA evaluation of the proposed schedule.

2. Please clarify if, in addition to a 10 year extension, the City is requesting a change in the level of control required by the LTCP or a change in controls to be implemented. If the City is requesting either, please provide a detailed description of the changes that the City is requesting including a proposed schedule.

3. The City's request includes cost estimates of \$15 million for upgrades to meet the phosphorus discharge limit included in the City's draft National Pollutant Discharge Elimination System permit. Please provide the basis for these estimates and more detail about the proposed projects that are the basis for these estimates. Please also explain whether the estimates are based on projects to achieve the limit in the draft permit or a different level of control. Please provide the alternative approaches considered and the engineer's opinion of probable costs.

Finally, please communicate directly with both EPA and IDEM regarding any requested changes to the Federal Consent Decree or the LTCP. As EPA and IDEM receive more detailed information to evaluate your request, we will be in a position to have a more productive consultation as requested.

Your responses to items (1) through (3) above should be in writing and should be mailed to:

John "Jack" J. Bajor, Jr.  
Enforcement Officer  
U.S. EPA, Region 5 (WC-15J)  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

And Marc Hancock  
CSO Project Manager, Compliance Branch  
Office of Water Quality  
Indiana Department of Environmental Management  
100 North Senate Street  
P.O. Box 6015  
Indianapolis, Indiana 46206

For all other inquiries and communications directed to the EPA concerning the City of Jeffersonville's updated FCA, the City's proposed modification of the Consent Decree and the LTCP approved under the Consent Decree, and all other related matters, please contact: .

Terry Branigan  
Associate Regional Counsel (C-14J)  
U.S. EPA/Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604  
(312) 353-4737 phone  
[branigan.terence@epa.gov](mailto:branigan.terence@epa.gov)

Sincerely,

---

Patrick F. Kuefler  
Chief, Water Enforcement and Compliance Assurance  
Branch, U.S. Environmental Protection Agency, Region 5

---

<<Name>>  
<<Title>>, <<Branch>>  
Office of Water Quality  
Indiana Department of Environmental Management

cc (all via email):  
Beth Admire, IDEM  
Leigh Voss, IDEM  
Marc Hancock, IDEM  
Lynn Riddle, IDEM  
Nigel Cooney, Department of Justice  
Terry Branigan, EPA

bcc: Bahr  
Bajor  
Branigan

## Branigan, Terence

---

**From:** ADMIRE, BETH <BADMIRE@idem.IN.gov>  
**Sent:** Monday, October 31, 2016 5:45 AM  
**To:** Branigan, Terence  
**Subject:** RE: Jeffersonville FCA Update and Request for Modification

After the issuance of an NPDES permit, the permittee has a period of time in which to appeal that permit. It is the phosphorus limit construction being done in the three year period of compliance they are worried about as it is very costly. This is the reason the want to re-open the CD.

---

**From:** Branigan, Terence [mailto:Branigan.Terence@epa.gov]  
**Sent:** Friday, October 28, 2016 4:17 PM  
**To:** Kelln, H. Max; ADMIRE, BETH  
**Subject:** RE: Jeffersonville FCA Update and Request for Modification

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Hi Max-

We've had some preliminary discussions about the modification request and are preparing correspondence seeking some additional information. The consensus here is that we'd like a chance to review the additional information prior to setting up a meeting to discuss the request. I am hopeful that the correspondence will be ready to send in the very near future.

Could you explain in more detail what is meant by saying that the city will have to act to preserve its rights regarding the new permit?

Thanks,

Terry

Terence Branigan  
Associate Regional Counsel (C-14J)  
U.S. EPA/Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604  
(312) 353-4737 phone  
(312) 385-5500 fax  
[branigan.terence@epa.gov](mailto:branigan.terence@epa.gov)

---

**From:** Kelln, H. Max [mailto:H.Max.Kelln@faegrebd.com]  
**Sent:** Thursday, October 27, 2016 12:54 PM  
**To:** Branigan, Terence <[Branigan.Terence@epa.gov](mailto:Branigan.Terence@epa.gov)>; ADMIRE, BETH <BADMIRE@idem.IN.gov>  
**Subject:** RE: Jeffersonville FCA Update and Request for Modification

Hi Terry –

Just checking in to see if the agencies are at a point yet where we can set up a meeting to discuss. The City of Jeffersonville's NPDES permit is nearing finalization, which will include a new phosphorus limit. So the city will have to act to preserve its rights regarding the new permit if a determination hasn't been made yet on the modification request.

Thanks!

Max

H. Max Kelln

*Associate*

[h.max.kelln@FaegreBD.com](mailto:h.max.kelln@FaegreBD.com) Download vCard

D: +1 317 237 1215 | M: +1 317 989 3078 | F: +1 317 237 1000

**Faegre Baker Daniels LLP**

300 N. Meridian Street | Suite 2700 | Indianapolis, IN 46204, USA

Connect: LinkedIn

---

**From:** Branigan, Terence [<mailto:Branigan.Terence@epa.gov>]

**Sent:** Thursday, October 13, 2016 3:17 PM

**To:** Kelln, H. Max; ADMIRE, BETH

**Subject:** RE: Jeffersonville FCA Update and Request for Modification

Hi Max:

November 8 and 9 won't work for EPA. We're having a conference call on Monday and should have a better idea afterward about what arrangements would work from this end.

Regards,

Terry

Terence Branigan

Associate Regional Counsel (C-14J)

U.S. EPA/Region 5

77 W. Jackson Boulevard

Chicago, Illinois 60604

(312) 353-4737 phone

(312) 385-5500 fax

[branigan.terence@epa.gov](mailto:branigan.terence@epa.gov)

---

**From:** Kelln, H. Max [<mailto:H.Max.Kelln@faegrebd.com>]

**Sent:** Thursday, October 13, 2016 12:51 PM

**To:** ADMIRE, BETH <[BADMIRE@idem.IN.gov](mailto:BADMIRE@idem.IN.gov)>; Branigan, Terence <[Branigan.Terence@epa.gov](mailto:Branigan.Terence@epa.gov)>

**Subject:** RE: Jeffersonville FCA Update and Request for Modification

Thanks Beth –

It looks like the week of the 24<sup>th</sup> doesn't work for us. We are available the first full week in November on the following dates:

- Tuesday, November 8; and
- Wednesday, November 9



Also, we want to propose having a call in advance if there are any questions/specifics you want us to address at the meeting. October 21 would work for the conference call.

Let us know if this works or is there any other dates that you area available after November 11.

Regards,

Max

H. Max Kelln

*Associate*

[h.max.kelln@FaegreBD.com](mailto:h.max.kelln@FaegreBD.com) Download vCard

D: +1 317 237 1215 | M: +1 317 989 3078 | F: +1 317 237 1000

**Faegre Baker Daniels LLP**

300 N. Meridian Street | Suite 2700 | Indianapolis, IN 46204, USA

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---

**From:** ADMIRE, BETH [<mailto:BADMIRE@idem.IN.gov>]

**Sent:** Friday, October 07, 2016 10:11 AM

**To:** Kelln, H. Max; [Branigan.Terence@epa.gov](mailto:Branigan.Terence@epa.gov)

**Subject:** RE: Jeffersonville FCA Update and Request for Modification

The week of the 24<sup>th</sup> would work better for me.

---

**From:** Kelln, H. Max [<mailto:H.Max.Kelln@faegrebd.com>]

**Sent:** Friday, October 07, 2016 10:09 AM

**To:** ADMIRE, BETH; [Branigan.Terence@epa.gov](mailto:Branigan.Terence@epa.gov)

**Subject:** RE: Jeffersonville FCA Update and Request for Modification

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---

Thanks. Would Friday, October 21 work? Again, our preference would be to meet in Jeffersonville so we can get as much local participation (sewer board, etc.) as possible. Also, I really think Jeffersonville wants an opportunity to show other progress that has been made with the system. We can provide a fuller agenda in advance. Regards, Max

H. Max Kelln

*Associate*

[h.max.kelln@FaegreBD.com](mailto:h.max.kelln@FaegreBD.com) Download vCard

D: +1 317 237 1215 | M: +1 317 989 3078 | F: +1 317 237 1000

**Faegre Baker Daniels LLP**

300 N. Meridian Street | Suite 2700 | Indianapolis, IN 46204, USA

Connect: LinkedIn

---

**From:** ADMIRE, BETH [<mailto:BADMIRE@idem.IN.gov>]

**Sent:** Monday, September 26, 2016 11:07 AM

**To:** Kelln, H. Max; [Branigan.Terence@epa.gov](mailto:Branigan.Terence@epa.gov)

**Subject:** RE: Jeffersonville FCA Update and Request for Modification

Hi Max:

We have an internal meeting schedule in this matter on October 17<sup>th</sup>, so I would prefer that we meet after that.

---

**From:** Kelln, H. Max [<mailto:H.Max.Kelln@faegrebd.com>]  
**Sent:** Monday, September 26, 2016 10:06 AM  
**To:** [Branigan.Terence@epa.gov](mailto:Branigan.Terence@epa.gov); ADMIRE, BETH  
**Subject:** Jeffersonville FCA Update and Request for Modification

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---

Terry and Beth –

I think by now each of you should have received Jeffersonville's FCA Update and Request for Modification. In terms of next steps, we would like to propose an in-person meeting for Jeffersonville to present the key points of its revised FCA, discuss our modification request, and answer any preliminary questions. For further reference, please see attached public comments that were submitted by Jeffersonville to IDEM as part of its recent draft permit renewal.

For the meeting, we'd propose either Tuesday, October 11, or Wednesday, October 12 as the best dates for us. Present would be Diana Hamilton (Sycamore Advisers), Chris Ranck (Arcadis), myself, Len Ashack (sewer director), and perhaps a couple members of the sewer board. Our initial preference would be to have the meeting in Jeffersonville.

Please let us know if these don't work (or feel free to propose your own) and preferred location. Please let us know if you would like to have a preliminary conference call before then as well.

Regards,

Max

H. Max Kelln

*Associate*

[h.max.kelln@FaegreBD.com](mailto:h.max.kelln@FaegreBD.com) Download vCard  
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Thank you.

## **Branigan, Terence**

---

**From:** Bajor, John  
**Sent:** Friday, November 18, 2016 8:48 AM  
**To:** VOSS, LEIGH; HANCOCK, MARC; Beth Admire; Novak, Paul  
**Cc:** Bahr, Ryan; Branigan, Terence  
**Subject:** RE: Routing for IDEM signature  
**Attachments:** ENV-ENFORCEMENT-.docx

Leigh:

Please see the attached revised signature block as contained in the letter for Paul to sign.

Please advise as you receive this email as we are all anxious to get this letter out in consideration of the Holiday week approaching. I trust that you are in the office today.

Thanks for all of your help.

Regards.

John "Jack" J. Bajor, Jr.  
Environmental Engineer/Enforcement Officer  
Water Division  
Water Enforcement & Compliance Assurance  
USEPA, Region 5  
WC-15J; #15020  
77 West Jackson Blvd.  
Chicago, Illinois 60604-3590  
Phone: (312) 353-4633  
FAX: (312) 886-6090  
Email: Bajor.john@epa.gov

---

**From:** VOSS, LEIGH [mailto:LVOSS@idem.IN.gov]  
**Sent:** Friday, November 18, 2016 7:04 AM  
**To:** Bajor, John <bajor.john@epa.gov>; HANCOCK, MARC <MHANCOCK@idem.IN.gov>; Beth Admire <badmire@idem.IN.gov>; Novak, Paul <PNovak@idem.IN.gov>  
**Cc:** Bahr, Ryan <bahr.ryan@epa.gov>  
**Subject:** RE: Routing for IDEM signature

Jack, I've sent this to Paul for signature. One typo I noted is that you have Paul Novak's signature block as the Chief of the Permits Section. He is the Chief of the Permits Branch...

---

**From:** Bajor, John [mailto:bajor.john@epa.gov]  
**Sent:** Thursday, November 17, 2016 5:17 PM  
**To:** VOSS, LEIGH; HANCOCK, MARC; ADMIRE, BETH  
**Cc:** Bahr, Ryan  
**Subject:** Routing for IDEM signature

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---

All:

Please find our final copy of the attached letter for Paul Novak's signature.

Please return via email for incorporation into our mailing to Jeffersonville.

Thank you.

Regards.

John "Jack" J. Bajor, Jr.  
Environmental Engineer/Enforcement Officer  
Water Division  
Water Enforcement & Compliance Assurance  
USEPA, Region 5  
WC-15J; #15020  
77 West Jackson Blvd.  
Chicago, Illinois 60604-3590  
Phone: (312) 353-4633  
FAX: (312) 886-6090  
Email: [Bajor.john@epa.gov](mailto:Bajor.john@epa.gov)

WC-15J

**CERTIFIED MAIL 7014 2870 0001 9580 7900**  
**RETURN RECEIPT REQUESTED**

Mr. Scott Lewis  
Sewer Board Attorney  
530 Court Avenue  
Jeffersonville, Indiana 47130

Re: City of Jeffersonville Financial Capability Assessment Update and Request for  
Consultation Regarding Proposed Modification of the Long Term Control Plan.  
Consent Decree #4:09-CV-0125DFH-WGH

Dear Mr. Lewis:

In a September 7, 2016 letter to the Indiana Department of Environmental Management (IDEM), you requested consultation with IDEM and with the U.S. Environmental Protection Agency (the Agencies) regarding a request for a proposed modification to the City of Jeffersonville's Long Term Control Plan (LTCP). Your letter included a request for a "10-year extension to complete its [Jeffersonville's] remaining projects under the current LTCP and further consultation to implement more economically feasible CSO levels of control for its LTCP." The City also provided an updated Financial Capability Assessment (FCA) dated September 2016.

In reviewing your request, the Agencies have identified information that we need to consider your proposal. Specifically, the Agencies request that the City provide the following information:

1. Provide an FCA aligned with the 10 year extension that you have proposed. The September 2016 FCA you sent IDEM aligns with the current LTCP schedule. In order to evaluate if a longer schedule is appropriate, the Agencies need an FCA evaluation of the proposed schedule.
2. Please clarify if, in addition to a 10 year extension, the City is requesting a change in the level of control required by the LTCP or a change in controls to be implemented. If the City is requesting either, please provide a detailed description of the changes that the City is requesting including a proposed schedule.



3. The City's request includes cost estimates of \$15 million for upgrades to meet the phosphorus discharge limit included in the City's draft National Pollutant Discharge Elimination System permit. Please provide the basis for these estimates and more detail about the proposed projects that are the basis for these estimates. Please also explain whether the estimates are based on projects to achieve the limit in the draft permit or a different level of control. Please provide the alternative approaches considered and the engineer's opinion of probable costs.

Finally, please communicate directly with both EPA and IDEM regarding any requested changes to the Federal Consent Decree or the LTCP. As EPA and IDEM receive more detailed information to evaluate your request, we will be in a position to have a more productive consultation as requested.

Your responses to items (1) through (3) above should be in writing and should be mailed to:

John "Jack" J. Bajor, Jr.  
Enforcement Officer  
U.S. EPA, Region 5 (WC-15J)  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

And Marc Hancock  
CSO Project Manager, Compliance Branch  
Office of Water Quality  
Indiana Department of Environmental Management  
100 North Senate Street  
P.O. Box 6015  
Indianapolis, Indiana 46206

For all other inquiries and communications directed to the EPA concerning the City of Jeffersonville's updated FCA, the City's proposed modification of the Consent Decree and the LTCP approved under the Consent Decree, and all other related matters, please contact:

Terry Branigan  
Associate Regional Counsel (C-14J)  
U.S. EPA/Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604  
(312) 353-4737 phone  
[branigan.terence@epa.gov](mailto:branigan.terence@epa.gov)

And Beth Admire  
Office of Legal Counsel  
Indiana Department of Environmental Management  
100 N. Senate Avenue  
Indianapolis, Indiana 46204-2273  
(317) 232-8584 phone  
[BAdmire@idem.IN.gov](mailto:BAdmire@idem.IN.gov)

Sincerely,

---

Patrick F. Kuefler  
Chief, Water Enforcement and Compliance Assurance  
Branch, U.S. Environmental Protection Agency, Region 5

---

Paul Novak, Chief  
Permits Branch  
Office of Water Quality  
Indiana Department of Environmental Management

cc: Beth Admire, IDEM  
Leigh Voss, IDEM  
Marc Hancock, IDEM  
Nigel Cooney, Department of Justice  
Terry Branigan, EPA  
Len Ashack, Director, City of Jeffersonville Wastewater Department



Bcc: Bahr  
Bajor  
Branigan



## **Branigan, Terence**

---

**From:** Bajor, John  
**Sent:** Tuesday, January 10, 2017 2:55 PM  
**To:** Beth Admire; VOSS, LEIGH  
**Cc:** Branigan, Terence; Bahr, Ryan  
**Subject:** City of Jeffersonville  
**Attachments:** City of Jeffersonville

Beth/ Leigh:

Have you heard any response from Mr. Scott Lewis the Sewer Board Attorney representing the City of Jeffersonville to date?

Our joint letter sent certified mail (attached) was received by them December 9, 2016 and we have received no response to our request for more information.

Please advise.

Thank you.

Regards.

John "Jack" J. Bajor, Jr.  
Enforcement Officer/Environmental Engineer  
Water Division  
Water Enforcement and Compliance Assurance  
USEPA, Region 5  
WC-15J; #15020  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590  
Phone: (312) 353-4633  
FAX: (312) 886-6090  
Email: bajor.john@epa.gov



## **Branigan, Terence**

---

**From:** Jamison, Tracy  
**Sent:** Tuesday, December 06, 2016 2:44 PM  
**To:** Bajor, John  
**Subject:** City of Jeffersonville  
**Attachments:** City of Jeffersonville LTCP.pdf





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

NOV 28 2016

REPLY TO THE ATTENTION OF:

WC-15J

**CERTIFIED MAIL 7014 2870 0001 9580 7900**  
**RETURN RECEIPT REQUESTED**

Mr. Scott Lewis  
Sewer Board Attorney  
530 Court Avenue  
Jeffersonville, Indiana 47130

Re: City of Jeffersonville Financial Capability Assessment Update and Request for  
Consultation Regarding Proposed Modification of the Long Term Control Plan.  
Consent Decree #4:09-CV-0125DFH-WGH

Dear Mr. Lewis:

In a September 7, 2016 letter to the Indiana Department of Environmental Management (IDEM), you requested consultation with IDEM and with the U.S. Environmental Protection Agency (the Agencies) regarding a request for a proposed modification to the City of Jeffersonville's Long Term Control Plan (LTCP). Your letter included a request for a "10-year extension to complete its [Jeffersonville's] remaining projects under the current LTCP and further consultation to implement more economically feasible CSO levels of control for its LTCP." The City also provided an updated Financial Capability Assessment (FCA) dated September 2016.

In reviewing your request, the Agencies have identified information that we need to consider your proposal. Specifically, the Agencies request that the City provide the following information:

1. Provide an FCA aligned with the 10 year extension that you have proposed. The September 2016 FCA you sent IDEM aligns with the current LTCP schedule. In order to evaluate if a longer schedule is appropriate, the Agencies need an FCA evaluation of the proposed schedule.
2. Please clarify if, in addition to a 10 year extension, the City is requesting a change in the level of control required by the LTCP or a change in controls to be implemented. If the City is requesting either, please provide a detailed description of the changes that the City is requesting including a proposed schedule.

3. The City's request includes cost estimates of \$15 million for upgrades to meet the phosphorus discharge limit included in the City's draft National Pollutant Discharge Elimination System permit. Please provide the basis for these estimates and more detail about the proposed projects that are the basis for these estimates. Please also explain whether the estimates are based on projects to achieve the limit in the draft permit or a different level of control. Please provide the alternative approaches considered and the engineer's opinion of probable costs.

Finally, please communicate directly with both EPA and IDEM regarding any requested changes to the Federal Consent Decree or the LTCP. As EPA and IDEM receive more detailed information to evaluate your request, we will be in a position to have a more productive consultation as requested.

Your responses to items (1) through (3) above should be in writing and should be mailed to:

John "Jack" J. Bajor, Jr.  
Enforcement Officer  
U.S. EPA, Region 5 (WC-15J)  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

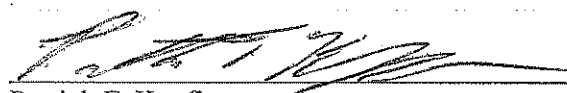
And Marc Hancock  
CSO Project Manager, Compliance Branch  
Office of Water Quality  
Indiana Department of Environmental Management  
100 North Senate Street  
P.O. Box 6015  
Indianapolis, Indiana 46206

For all other inquiries and communications directed to the EPA and IDEM concerning the City of Jeffersonville's updated FCA, the City's proposed modification of the Consent Decree and the LTCP approved under the Consent Decree, and all other related matters, please contact:

Terry Branigan  
Associate Regional Counsel (C-14J)  
U.S. EPA/Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604  
(312) 353-4737 phone  
[branigan.terence@epa.gov](mailto:branigan.terence@epa.gov)

And Beth Admire  
Office of Legal Counsel  
Indiana Department of Environmental Management  
100 N. Senate Avenue  
Indianapolis, Indiana 46204-2273  
(317) 232-8584 phone  
[BAdmire@idem.IN.gov](mailto:BAdmire@idem.IN.gov)

Sincerely,



Patrick F. Kuefler  
Chief, Water Enforcement and Compliance Assurance  
Branch, U.S. Environmental Protection Agency, Region 5





---

Paul Novak, Chief  
Permits Branch  
Office of Water Quality  
Indiana Department of Environmental Management

cc: Beth Admire, IDEM  
Leigh Voss, IDEM  
Marc Hancock, IDEM  
Nigel Cooney, Department of Justice  
Terry Branigan, EPA  
Len Ashack, Director, City of Jeffersonville Wastewater Department



## **Branigan, Terence**

---

**From:** Branigan, Terence  
**Sent:** Friday, October 28, 2016 3:17 PM  
**To:** Kelln, H. Max; ADMIRE, BETH  
**Subject:** RE: Jeffersonville FCA Update and Request for Modification

Hi Max-

We've had some preliminary discussions about the modification request and are preparing correspondence seeking some additional information. The consensus here is that we'd like a chance to review the additional information prior to setting up a meeting to discuss the request. I am hopeful that the correspondence will be ready to send in the very near future.

Could you explain in more detail what is meant by saying that the city will have to act to preserve its rights regarding the new permit?

Thanks,

Terry

Terence Branigan  
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(312) 385-5500 fax  
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Thanks!

Max

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*Associate*

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Thank you.

## **Branigan, Terence**

---

**From:** Kevin Baity <KBaity@townofclarksville.com>  
**Sent:** Friday, October 28, 2016 2:41 PM  
**To:** Bajor, John  
**Cc:** Branigan, Terence; Brittany Montgomery  
**Subject:** Jeffersonville, IN - Wastewater Consent Decree

Mr. Bajor,

Thank you for speaking with Town staff earlier today. The Town of Clarksville appreciates EPA's assistance in this matter.

The Town of Clarksville wishes to be kept informed about the progress of Jeffersonville's Consent Decree Review. The Town is directly downstream from Jeffersonville and is impacted directly by their the CSO's on a regular basis. In particular the CSO's to Cane Run Creek are of continued concern as the creek runs directly through our community. The Town requests the opportunity to comment on any proposed changes to the existing Consent Decree and Long-term Control Plan and to have our concerns heard by EPA.

Thank you for your time assistance on this matter. The Town is looking forward to working with you and your team as this process moves forward.

The Town's primary contact will be Brittany Montgomery. Please copy me on all email correspondence.

Thank you,

Kevin Baity  
Town Manager  
Town of Clarksville  
2000 Broadway  
Clarksville, IN 47129  
Office: 812-283-1400

Brittany Montgomery  
Utilities and Capital Projects Coordinator Town of Clarksville  
2000 Broadway  
Clarksville, IN 47129  
Office: 812-283-1431  
bamontgomery@townofclarksville.com





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**Subject:** RE: Jeffersonville FCA Update and Request for Modification

The week of the 24<sup>th</sup> would work better for me.

---

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**Sent:** Friday, October 07, 2016 10:09 AM  
**To:** ADMIRE, BETH; Branigan.Terence@epa.gov  
**Subject:** RE: Jeffersonville FCA Update and Request for Modification

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*Associate*

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**Faegre Baker Daniels LLP**

300 N. Meridian Street | Suite 2700 | Indianapolis, IN 46204, USA  
Connect: LinkedIn

---

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**Subject:** RE: Jeffersonville FCA Update and Request for Modification

Hi Max:

We have an internal meeting schedule in this matter on October 17<sup>th</sup>, so I would prefer that we meet after that.

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**From:** Kelln, H. Max [mailto:[H.Max.Kelln@faegrebd.com](mailto:H.Max.Kelln@faegrebd.com)]  
**Sent:** Monday, September 26, 2016 10:06 AM  
**To:** [Branigan.Terence@epa.gov](mailto:Branigan.Terence@epa.gov); ADMIRE, BETH  
**Subject:** Jeffersonville FCA Update and Request for Modification

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Thank you.

## Branigan, Terence

---

**From:** Bajor, John  
**Sent:** Tuesday, October 11, 2016 12:42 PM  
**To:** HANCOCK, MARC  
**Cc:** Branigan, Terence  
**Subject:** RE: EPA Conference Call with EPA About Jeffersonville's LTCP Request

I'll check with Terry Branigan, our ORC attorney.

Thanks Marc.

John "Jack" J. Bajor, Jr.  
Environmental Engineer/Enforcement Officer  
Water Division  
Water Enforcement & Compliance Assurance  
USEPA, Region 5  
WC-15J; #15020  
77 West Jackson Blvd.  
Chicago, Illinois 60604-3590  
Phone: (312) 353-4633  
FAX: (312) 886-6090  
Email: Bajor.john@epa.gov

**From:** HANCOCK, MARC [mailto:MHANCOCK@idem.IN.gov]  
**Sent:** Tuesday, October 11, 2016 12:30 PM  
**To:** Bajor, John  
**Cc:** Hancock, Miranda J  
**Subject:** RE: EPA Conference Call with EPA About Jeffersonville's LTCP Request

Hi Jack,

Any luck nailing down a phone number for the DOJ representative for next Monday's conference call about Jeffersonville?

-----Original Appointment-----

**From:** Bajor, John [mailto:bajor.john@epa.gov]  
**Sent:** Monday, September 26, 2016 9:52 AM  
**To:** HANCOCK, MARC  
**Cc:** Branigan, Terence; Bahr, Ryan  
**Subject:** Accepted: EPA Conference Call with EPA About Jeffersonville's LTCP Request  
**When:** Monday, October 17, 2016 12:30 PM-1:30 PM (UTC-05:00) Eastern Time (US & Canada).  
**Where:** IDEM Conf OWQ D IGCN 1203

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Ok.

Thanks Marc.

The only number I need for you would be the DOJ representative. I will provide that to you as received. Our Attorney Terry Branigan is working on this.

Regards.

-Jack Bajor

## Branigan, Terence

---

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**Sent:** Monday, September 26, 2016 9:06 AM  
**To:** Branigan, Terence; ADMIRE, BETH (BADMIRE@idem.IN.gov)  
**Subject:** Jeffersonville FCA Update and Request for Modification  
**Attachments:** 2016-08-31 - Draft Permit Comment Letter from L. Ashack to L. Voss.pdf; 2016-07-28 - Jeffersonville Pre-Public Notice Draft Permit Comment Lette.pdf

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## WASTEWATER DEPARTMENT

**ADMINISTRATIVE OFFICE**

River Ridge Commerce Center  
423 Lewman Way  
Jeffersonville, Indiana 47130

phone 812 - 285 - 6451

**UTILITY BILLING OFFICE**

500 Quartermaster Court  
Room 104  
Jeffersonville, Indiana 47130

phone 812 - 285 - 6418

August 31, 2016

**VIA E-MAIL**

Ms. Leigh Voss, Chief  
Municipal Permits Section  
Indiana Department of Environmental Management  
Office of Water Quality Mail Code 65-42  
100 North Senate Avenue  
Indianapolis, Indiana 46204-2251

**RE: PUBLIC COMMENTS TO DRAFT  
JEFFERSONVILLE NPDES PERMIT RENEWAL  
PERMIT NO. IN0023302**

Dear Ms. Voss:

The following are the City of Jeffersonville's public comments to the draft NPDES Permit IN0023302 for its downtown wastewater treatment plant. In particular, the City of Jeffersonville wishes to comment on the following new requirement provided in Part I, Section A.1 of the Draft NPDES Permit:

**TABLE 1**

<u>Parameter</u>	<u>Quality or Loading</u>			<u>Quality or Concentration</u>			<u>Monitoring Requirements</u>	<u>Sample Type</u>
	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Units</u>	<u>Measurement Frequently</u>	
Phosphorus Interim [4]	----	----	----	Report	----	mg/l	Daily	24-Hr. Composite
Final [4]	----	----	----	1.0	----	mg/l	Daily	24-Hr. Composite

[4] Refer to the Schedule of Compliance for phosphorus in Part I.D. of this permit.

Pursuant to Part I.D.5 of the Draft NPDES Permit, Jeffersonville must comply with this deadline within thirty-six (36) months following its effective date.

However, the City of Jeffersonville is under a consent decree to complete its Long Term Control Plan (LTCP) to control combined sewer overflows (CSOs) by June 2025. The bulk of these LTCP projects are scheduled during the phosphorus compliance period. Unless Jeffersonville's LTCP is modified, the capital upgrades needed to comply with the phosphorus limit will cause undue hardship or burden.

## **I. Jeffersonville's LTCP Has Pushed Its Finances To The Limit**

Jeffersonville is in the process of updating its Financial Capability Assessment (FCA), as required by Indiana Code 13-18-3-2.4. Preliminary results of this assessment show that Jeffersonville remains a "high burden" community with respect to the affordability of its LTCP. In fact, its financial condition has worsened significantly since it was submitted. Most importantly, the costs of its overall sewer program have increased to over 3.9% of Jeffersonville's annual median household income. Meanwhile, the so-called "circuit breaker" has caused Jeffersonville's property tax collection rate to go from "strong" to "weak."

The cost of Jeffersonville's LTCP has increased significantly since it was submitted in 2010. At the time, Jeffersonville's LTCP had an estimated cost of \$90-120 million. Although Jeffersonville has completed two out of the three phases of its LTCP, the estimated costs of the final phase have increased by over \$14 million to \$44,000,000. These projects have not yet been funded.

Jeffersonville's overall sewer needs have also increased because of higher O&M costs and the development of a formal repair and replacement schedule. At the time its LTCP was approved, Jeffersonville forecasted approximately \$143 million in total sewer costs, which only included the stormwater conveyance system and LTCP projects. Since then, the scope of the projects and cost estimates has ballooned to over \$195 million, with over \$110 million for projects yet to be completed. These needs have put a huge financial strain on the City of Jeffersonville.

Because of these significant demands, Jeffersonville has already incurred \$94.8 million in outstanding sewer debt to fund the second phase of its LTCP, which will heavily burden the city through at least 2030. In total, Jeffersonville's debt per capita is \$4,371. This is extremely high for a blue collar community like Jeffersonville. To keep up, the city has tripled rates since 2011. In 2015, Jeffersonville's rate for residential customers was \$67.27, which is significantly higher than the average and in the range that Indiana SRF considers eligible for principal forgiveness for its loan programs. The rate increases needed to pay for the remaining projects would put Jeffersonville among the highest in the country.

## **II. Jeffersonville Cannot Afford the Upgrades to Comply with the Phosphorus Limit**

The costs to meet the phosphorus limits are expected to be significant. The 1.0 milligram per liter (mg/l) total phosphorus monthly average effluent limit in the draft permit will require Jeffersonville's downtown plant to reduce phosphorus levels by 90%. It is estimated that the necessary upgrades to achieve these levels will cost \$11,494,000, none of which has been funded. It will also add approximately \$1,150,000 in annual O&M expenses. The permit for Jeffersonville's north wastewater treatment plant must be renewed in 2018, which will require that Jeffersonville spend another \$5,000,000 in capital upgrades and add \$500,000 in O&M expenses.

Because of its LTCP requirements, Jeffersonville does not currently have the ability to finance the phosphorus upgrades (which weren't anticipated when the city developed its LTCP). Despite the significant amount of unfunded Phase III projects left, Jeffersonville may have as little as \$6.5 million in available bonding capacity. Jeffersonville will be faced with this financing

crunch until previous debt can be paid off beginning in 2032. In short, Jeffersonville cannot afford both its remaining LTCP projects and the required phosphorus upgrades.

### **III. IDEM Has The Authority to Waive The Phosphorus Requirement**

IDEM established the 1.0 mg/l phosphorus limit through a Non-Rule Policy Document (NPD); and, therefore, can waive the requirement without going through the formal variance process. Unlike effluent limits that are set under 327 IAC 2, IDEM set the new phosphorus limit through a policy that did not go through formal rulemaking. IDEM can therefore postpone application of this limit to Jeffersonville and reweigh the costs and benefits during Jeffersonville's next permit renewal.

Indiana regulation 327 IAC 5-10-2(a)(2) allows IDEM to determine that "phosphorus reduction is needed to protect downstream water uses or to insure that water quality standards applicable to the affected waters of the state are met." However, the determination need not apply to all sources; IDEM can determine on an individual basis that such limits are not needed. First, upriver agricultural activities are likely to be much larger phosphorus contributors than the downtown plant. Second, any impacts from Mill Creek are likely to have de minimis impact on the Ohio River. Particularly given the large capital investment needed to comply with its LTCP, incorporation of the phosphorus limit into this NPDES permit will cause Jeffersonville undue hardship and burden.

Based on the above, the City of Jeffersonville requests that the phosphorus limit be removed from its NPDES permit unless its LTCP can be modified to allow these short-term upgrades. Other public comments for the Draft NPDES Permit are provided in Appendix A.

We look forward to working with IDEM on reasonable compliance schedules that are financially feasible and protective of the environment. All rights regarding this Draft Public Notice Permit are reserved.

Sincerely,

***CITY OF JEFFERSONVILLE***

Len Ashack  
Director

Attachment – Exhibit A

cc: Paul Higginbotham – Assistant Commissioner, Office of Water Quality, IDEM  
Jeffersonville Sanitary Sewer Board  
NPDES Permit Files

**Exhibit A**

***Technical Comments***

**Page 3 – Table 2 Footnote [6]**

The DWWTP has continuous dissolved oxygen measurement which is recorded in the SCADA system. In order to effectively use the effluent DO monitoring system in place, we ask that the above wording be changed to read as follows:

*[6] The daily minimum concentration of dissolved oxygen in the effluent shall be reported as the arithmetic mean of the lowest dissolved oxygen reading taken at three (3) hour intervals and determined by summation of the eight (8) daily DO readings divided by the number of daily readings. The dissolved oxygen readings are to be collected and recorded every three (3) hours.*



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500 Quartermaster Court  
Room 104  
Jeffersonville, Indiana 47130

phone 812 - 285 - 6418

July 28, 2016

**VIA E-MAIL**

Mr. Jerry Dittmer, Chief  
Municipal Permits Section  
Indiana Department of Environmental Management  
Office of Water Quality Mail Code 65-42  
100 N. Senate Ave.  
Indianapolis, Indiana 46204-2251

***RE: COMMENTS TO PRE-DRAFT PUBLIC NOTICE  
JEFFERSONVILLE NPDES PERMIT RENEWAL  
PERMIT No. IN0023302***

Dear Mr. Dittmer:

Please find enclosed the City of Jeffersonville's comments to the Pre-Public Notice Draft of NPDES Permit IN0023302 for its downtown wastewater treatment plant. As you know, the biggest change to this permit is the new 1.0 milligram per liter (mg/L) total phosphorus limit. Given the ongoing requirements of our Long Term Control Plan (LTCP), the City of Jeffersonville has limited means to fund the capital upgrades needed to meet the limit's three-year implementation schedule. We are in the process of completing our Financial Capability Assessment (FCA) update, which preliminary results show that that these projects are less affordable than when the city completed its last FCA five years ago. As a result, Jeffersonville will need to either modify its LTCP or have more than three years to comply with its new phosphorus limit. It's also possible that because of Jeffersonville's extreme financial difficulties, we will still need longer to meet the permit's new limit regardless of whether it gets an LTCP schedule extension.

Despite tripling its sewer rates, the LTCP projects have burdened Jeffersonville with significant debt. Since 2011, the estimated cost of the City of Jeffersonville's LTCP and collection system projects have increased to over \$200,000,000, a large portion of which still remains unfunded. Jeffersonville has tried to keep up by raising its rates, which are now among the highest in Indiana. Despite these efforts, Jeffersonville does not have anywhere near the available bonding capacity to complete remaining LTCP projects and the phosphorus capital projects within the required periods.

The cost of the remaining LTCP and treatment plant upgrades for phosphorus far exceeds Jeffersonville's bonding capacity. Jeffersonville has \$44.6 million in remaining LTCP capital projects that are currently unfunded. The cost of the phosphorus treatment upgrades are estimated to cost over \$11 million for Jeffersonville's downtown plant alone. Yet, Jeffersonville may have

as little as \$5.5 million in available bonding capacity until its previous debt can be paid off beginning in 2032. The Indiana Finance Authority has also indicated that it will cap subsidized SRF loans at \$10 million, which will likely raise Jeffersonville's borrowing costs.

As noted above, preliminary results from Jeffersonville's FCA update shows that the cost of its LTCP and other sewer program requirements places an even higher burden on Jeffersonville's ratepayers than anticipated when it entered into its consent decree in 2009. Unless Jeffersonville is granted relief, these increased sewer program costs will increase the burden on residents based on Jeffersonville's median household income on a per capita basis compared to the burden contained in the approved LTCP. Put simply, Jeffersonville is in a weaker financial position and cannot complete these projects within the required deadlines without causing significant and widespread negative social and economic impacts.

We look forward to working with IDEM on reasonable compliance schedules that are financially feasible and protective of the environment. All rights regarding this Pre-Draft Public Notice Permit are reserved.

Sincerely,

**CITY OF JEFFERSONVILLE**



Len Ashack  
Director

Attachment – Technical Comments

Cc: Jeffersonville Sanitary Sewer Board  
NPDES Permit Files

## TECHNICAL COMMENTS

### Page 1

The City changed the name of the street on which the Downtown WWTP is located. It is now 1420 Bates Bowyer Ave. and no longer Pennsylvania Ave.

### Page 3 of 46 Table 2 under Monitoring Requirements the Daily Dissolved Oxygen.

The current permit requires that *"the daily minimum concentration of dissolved oxygen in the effluent shall be reported as the lowest result of the daily continuous monitoring of dissolved oxygen."* Although the City requested this change during the last permit renewal, we request that the language be changed back to reporting based on DO readings be taken once every three (3) hours or 8 times daily and averaged for the 24 hour period.

The reason for this change is that if there is a problem with the DO probe, the reading will show up as low as 0.0 mg/L even though there is adequate DO in the effluent to meet the 6.0 mg/L daily minimum. SCADA readings will be taken every three hours and averaged for the 24-hr period. If there is an issue with the DO probe our SCADA will send out an alarm that will alert staff to check the SCADA system and the DO probe.

### Part III – Requirement to Operate a Pretreatment Program

The City does not have any specific comments on this requirement although the City wants to make your office aware that this is the same requirement as is in the current permit. The City did a local limits study in the Spring 2015, which was submitted to and approved by USEPA in a letter dated July 17, 2015. Based on the approval of the local limits, the City has drafted a revised Sewer Use and Pretreatment Ordinance and it was submitted to U.S. EPA – Region V in both electronic and hard copy on November 12, 2015. Region V has neither commented on nor approved the revised Ordinance. Unless there is a new pretreatment facility locating in Jeffersonville which has a potential to discharge pollutants not contained in the Revised or existing Sewer Use Ordinance, the City through the Wastewater Department will wait to get comments or approval from Region V on the Revised Ordinance. Meanwhile, we believe that the existing Ordinance is protective of the WWTP and waters of the State.



## **Branigan, Terence**

---

**From:** Bajor, John  
**Sent:** Monday, September 26, 2016 8:52 AM  
**To:** HANCOCK, MARC  
**Cc:** Branigan, Terence; Bahr, Ryan  
**Subject:** Accepted: EPA Conference Call with EPA About Jeffersonville's LTCP Request

Ok.

Thanks Marc.

The only number I need for you would be the DOJ representative. I will provide that to you as received. Our Attorney Terry Branigan is working on this.

Regards.

-Jack Bajor



## **Branigan, Terence**

---

**From:** Branigan, Terence  
**Sent:** Friday, September 09, 2016 2:29 PM  
**To:** Bajor, John; Kelln, H. Max  
**Cc:** Bahr, Ryan; Kuefler, Patrick  
**Subject:** RE: City of Jeffersonville FCA Update and Request for Modification

Max:

As Jack indicated below, we haven't yet seen the City of Jeffersonville's submittals. I'll give you a call after we've received them.

Regards,

Terry

Terence Branigan  
Associate Regional Counsel (C-14J)  
U.S. EPA/Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604  
(312) 353-4737 phone  
(312) 385-5500 fax  
branigan.terence@epa.gov

**From:** Bajor, John  
**Sent:** Friday, September 09, 2016 2:19 PM  
**To:** Kelln, H. Max <H.Max.Kelln@faegrebd.com>  
**Cc:** Branigan, Terence <Branigan.Terence@epa.gov>; Bahr, Ryan <bahr.ryan@epa.gov>; Kuefler, Patrick <kuefler.patrick@epa.gov>  
**Subject:** RE: City of Jeffersonville FCA Update and Request for Modification

Max:

Thank you for advising us of the City of Jeffersonville's impending delivery to EPA of a FCA update and a Request for Modification. As of today we have not received the mailing.

I am copying our assigned Office of Regional Counsel Attorney Terry Branigan with this email so he is aware of the pending submittals. It would be best that you contact him directly at [branigan.terence@epa.gov](mailto:branigan.terence@epa.gov), (312) 353-4737. We will need to work collectively with him and your office to arrange an initial conference call.

Regards.

John "Jack" J. Bajor, Jr.  
Environmental Engineer/Enforcement Officer  
Water Division  
Water Enforcement & Compliance Assurance  
USEPA, Region 5

WC-15J; #15020  
77 West Jackson Blvd.  
Chicago, Illinois 60604-3590  
Phone: (312) 353-4633  
FAX: (312) 886-6090  
Email: [Bajor.john@epa.gov](mailto:Bajor.john@epa.gov)

---

**From:** Kelln, H. Max [<mailto:H.Max.Kelln@faegrebd.com>]  
**Sent:** Friday, September 09, 2016 8:00 AM  
**To:** Bajor, John <[bajor.john@epa.gov](mailto:bajor.john@epa.gov)>  
**Subject:** City of Jeffersonville FCA Update and Request for Modification

Jack –

We represent the City of Jeffersonville with respect to the recent submittal of its FCA update and Request for Modification. You should be soon receiving the submittal if you haven't already. I have already been in touch with Beth Admire at IDEM, but wanted to give you a call to introduce myself and hopefully set up a time where we could present our FCA findings and begin discussions in person.

If you could, please give me a call at your earliest convenience. While this is pending, I would also respectfully request any communications go through me regarding Jeffersonville's FCA and LTCP. I have been told that Terry Braniger is the EPA attorney for this matter, but I don't have his contact information. Please feel free to pass that along if you would like me to contact him directly.

Regards,

Max

H. Max Kelln

**Associate**

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Max

H. Max Kelln

*Associate*

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H. Max Kelln

***Associate***

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